

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AARON KIMBER, #357691,)
Plaintiff,)
) No. 1:16-cv-365
-v-)
)
JOHN MURPHY, et al.,) Honorable Paul L. Maloney
Defendants.)
)

ORDER ADOPTING REPORT AND RECOMMENDATION
AND
ORDER GRANTING DEFENDANT MURPHY'S MOTION FOR SUMMARY
JUDGMENT

Plaintiff Aaron Kimber is a prisoner under the control of the Michigan Department of Corrections. Kimber filed this civil rights lawsuit under 42 U.S.C. § 1983. Defendant Bookheimer filed a motion for summary judgment. (ECF No. 22.) The magistrate judge issued a report recommending the following: (1) dismiss all claims for declaratory and injunctive relief, and (2) grant Bookheimer's motion because Plaintiff did not properly exhaust his grievances. (ECF No. 30.) Plaintiff filed objections to the second recommendation. (ECF No. 31.)

After being served with a report and recommendation (R&R) issued by a magistrate judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). A district court judge reviews de novo the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Only those objections that are specific are entitled to a de

novo review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam).

First, Plaintiff has not objected to the recommendation that his requests for declaratory and injunctive relief are moot.

Second, Plaintiff has not demonstrated that he properly exhausted his administrative grievances. While he may have submitted a grievance and appeals, the last appeal was ultimately denied because Plaintiff did not timely initiate the grievance process. As explained in the R&R, the timeliness issue was not waived by the failure to raise it at an earlier stage in the grievance process.

For these reasons, the Court **ADOPTS** the Report and Recommendation (ECF No. 30) as its Opinion. Defendant Bookheimer's motion for summary judgment (ECF No. 22) is **GRANTED**. Plaintiff's claims for declaratory and injunctive relief are **DISMISSED**. Plaintiff's claims against Defendant Bookheimer are **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Date: February 5, 2018

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge